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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,197	05/11/2001	Atsushi Inagaki -	1232-4714	5889

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EXAMINER

MISLEH, JUSTIN P

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/853,197

Applicant(s)

INAGAKI, ATSUSHI

Examiner

Justin P. Misleh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10 November 2004 have been fully considered but they are not persuasive.

The Applicant argues that the “Driving Signal Processing Circuit 110 and AF Evaluation Detecting Circuit 130 of Miyawaki” do not teach or fairly suggest obtaining a focus evaluating value from an image signal that corresponds to a part of a region of the displayed image if it is determined in the display designating unit that the sensed image is not displayed by the image display device.

The Examiner disagrees with Applicant's position because when an area is selected for AF and electronic zooming, only a portion of said image sensor corresponding to selected area is readout (see column 12, lines 49 – 54). Figure 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal. Furthermore, only when a display designating unit does NOT display said image signal is when only a portion of said image sensor is readout (see column 12, lines 49 – 54). Lastly, figure 10f is prohibited from being displayed until at least AF and electronic zooming is completed.

Claim Objections

2. **Claims 2 and 9** are objected to because of the following informalities: typographical errors.

The claim language recites therein “said part of the region”; however, “reading only a portion of said image sensor” has been previously introduced. For the purposes of examination, “said part of the region” will be interpreted as “said portion”. Furthermore, the claim language includes the word “signed”, which appears to be a typographical error. For the purposes of examination “signed” will be omitted.

Appropriate correction is required.

3. **Claims 3, 10, and 16** are objected to because of the following informalities: typographical errors.

The claim language recites therein “the entire region”; however, “reading only a portion of said image sensor” has been previously introduced. For the purposes of examination, “the entire region” will be interpreted as “an entire region”.

Appropriate correction is required.

4. **Claims 5 and 12** are objected to because of the following informalities: typographical errors.

The claim language recites therein “said sensed image”; however, “an image signal” has been previously introduced. For the purposes of examination, “said sensed image” will be interpreted as “said image signal”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1 – 6, 8 – 13, and 17** are rejected under 35 U.S.C. 102(b) as being anticipated by Miyawaki et al. (EP 650 292 A1).

7. For **Claim 1**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), an image sensing apparatus for photographing an image signal of a subject, comprising:

an image sensor (101) that senses said image of said subject for photographing (An exemplary “image of a subject” is shown in figure 10a; herein “said sensed image” refers to figure 10a);

an image display device (109) that displays said image signal while said image sensing apparatus photographs said image signal (Figures 10a – 10f, as stated in column 14, lines 36 – 47, show image information on the LCD 210 and image information to be recorded by the VTR 103; hence, figures 10a – 10f show a live view mode);

a display designating unit (110) that determines whether or not said image signal is displayed by said image display device (109) while said image sensing apparatus photographs said image signal (Figure 10e is an example of said image signal that has been determined to be NOT displayed, see column 14, line 49 – column 15, line 14); and

a focus evaluating value obtaining device (130 and 131) that obtains a focus evaluating value (“high frequency component”; see column 13, lines 24 – 42) for adjusting a focus based on said image signal obtained by said image sensor (101; As shown in figure 8, the image signal is passed to blocks 130 and 102.), wherein said focus evaluating value obtaining device (130 and

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131) obtains said focus evaluating value (“high frequency component”) by reading only a portion of said image sensor when said display designating unit (110) determines that said image signal is not displayed (Figure 10e) by said image display device (109/210) while said image sensing apparatus photographs said image signal (When an area is selected for AF and electronic zooming, only a portion of said image sensor corresponding to selected area is readout, see column 12, lines 49 – 54).

8. For **Claim 8**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), a control method of an image sensing apparatus for photographing an image signal of a subject, comprising:

an image sensing step by an image sensor (101) that senses said image of said subject for photographing (An exemplary “image of a subject” is shown in figure 10a; herein “said sensed image” refers to figure 10a);

an image displaying step by an image display device (109) that displays said image signal while said image sensing apparatus photographs said image signal (Figures 10a – 10f, as stated in column 14, lines 36 – 47, show image information on the LCD 210 and image information to be recorded by the VTR 103; hence, figures 10a – 10f show a live view mode);

a display designating step by a display designating unit (110) that determines whether or not said image signal is displayed by said image display device (109) while said image sensing apparatus photographs said image signal (Figure 10e is an example of said image signal that has been determined to be NOT displayed, see column 14, line 49 – column 15, line 14); and

a focus evaluating obtaining step by a focus evaluating value obtaining device (130 and 131) that obtains a focus evaluating value (“high frequency component”; see column 13, lines 24

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– 42) for adjusting a focus based on said image signal obtained by said image sensor (101; As shown in figure 8, the image signal is passed to blocks 130 and 102.), wherein said focus evaluating value obtaining device (130 and 131) obtains said focus evaluating value (“high frequency component”) by reading only a portion of said image sensor when said display designating unit (110) determines that said image signal is not displayed (Figure 10e) by said image display device (109/210) while said image sensing apparatus photographs said image signal (When an area is selected for AF and electronic zooming, only a portion of said image sensor corresponding to selected area is readout, see column 12, lines 49 – 54).

9. As for **Claims 2 and 9** (please see objections above), Miyawaki et al. disclose, as shown in figure 10, wherein said portion (figure 10e) of said display screen includes a focusing detecting area set in advance (the focusing regions are predetermined, as clearly shown figure 10).

10. As for **Claims 3 and 10**, Miyawaki et al. disclose, as shown in figure 10, wherein said focus evaluating value obtaining device obtains said focus evaluating value by reading an entire region of said image sensor when said display designating unit determines that said image signal is displayed by said image display while said image sensing apparatus photographs said image signal (see explanation below).

Figure 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal. Furthermore, only when a display designating unit does NOT display said image signal is when only a portion of said image sensor is readout, see column 12, lines 49 – 54.

11. As for **Claims 4 and 11**, Miyawaki et al. disclose, as shown in figure 8 and as stated in column 13 (lines 24 – 42), wherein said focus evaluating value (“high frequency component”) is obtained based on a high frequency component of said image signal obtained by said image sensor/sensing step (101).

12. As for **Claims 5 and 12** (please see objections above), Miyawaki et al. disclose a display prohibiting device (same the display designating device) that prohibits display of said image signal by said image display device (109/210) at least until photographing processing (AF and electronic zooming) is completed if said display designating unit determines that said image signal is displayed (figure 10f) by said image display device (109/210) while said image sensing apparatus photographs said sensed image signal.

Figure 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal. Furthermore, figure 10f is prohibited from being displayed until at least AF and electronic zooming is completed.

As for **Claims 6 and 13**, Miyawaki et al. disclose, as shown in figure 8, a focus adjusting device/step that adjusts a focus (by means of 132) based on said focus evaluating value (“high frequency component”) obtained by said focus evaluating value obtaining device/step (130 and 131).

13. For **Claim 17**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), an image sensing apparatus for photographing an image signal of a subject, comprising:

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an image sensor (101) configured to sense an image of a subject to output an image signal (An exemplary “image of a subject” is shown in figure 10a; herein “said sensed image” refers to figure 10a);

an display (109) configured to display said image signal while said image sensing apparatus photographs said image signal (Figures 10a – 10f, as stated in column 14, lines 36 – 47, show image information on the LCD 210 and image information to be recorded by the VTR 103; hence, figures 10a – 10f show a live view mode);

a designation unit (110) configured to determine whether or not said image signal is displayed by said image display device (109) while said image sensing apparatus photographs said image signal (Figure 10e is an example of said image signal that has been determined to be NOT displayed, see column 14, line 49 – column 15, line 14); and

a calculating unit configured to calculate a focus evaluating value obtaining device (130 and 131) for focus adjustment based on said image signal,

wherein said calculating unit calculates said focus evaluating value (“high frequency component”) by reading only a portion of said image sensor when said display designating unit (110) determines that said image signal is not displayed (Figure 10e) by said image display device (109/210) while said image sensing apparatus photographs said image signal (When an area is selected for AF and electronic zooming, only a portion of said image sensor corresponding to selected area is readout, see column 12, lines 49 – 54).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claims 7 and 14 – 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyawaki et al.

16. As for **Claims 7 and 14**, Miyawaki et al. disclose a display designating unit (110) that designates whether or not said sensed image (figure 10a) is displayed by said image display device (109) when the image of the subject is sensed by said image sensor (As stated in columns 13, lines 47 – 58, and 14, lines 1 – 4, said display designating unit, 110, does not designate until an image is sensed by said image sensor, 101) that is implemented in hardware. Albeit, Miyawaki et al. do not disclose wherein designation by said display designation unit/step is stored in a memory as an image display flag.

However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of designation by said display designation unit/step is stored in a memory as an image display flag are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have for the advantage to provide a readily upgradeable method of operation.

17. For **Claim 15**, Miyawaki et al. disclose, as shown in figures 8 – 10 and as stated in column 11 (line 45) – column 15 (line 34), a control method of an image sensing apparatus for photographing an image signal of a subject, comprising:

an image sensing step by an image sensor (101) that senses said image of said subject for photographing (An exemplary “image of a subject” is shown in figure 10a; herein “said sensed image” refers to figure 10a);

an image displaying step by an image display device (109) that displays said image signal while said image sensing apparatus photographs said image signal (Figures 10a – 10f, as stated in column 14, lines 36 – 47, show image information on the LCD 210 and image information to be recorded by the VTR 103; hence, figures 10a – 10f show a live view mode);

a display designating step by a display designating unit (110) that determines whether or not said image signal is displayed by said image display device (109) while said image sensing apparatus photographs said image signal (Figure 10e is an example of said image signal that has been determined to be NOT displayed, see column 14, line 49 – column 15, line 14); and

a focus evaluating obtaining step by a focus evaluating value obtaining device (130 and 131) that obtains a focus evaluating value (“high frequency component”; see column 13, lines 24 – 42) for adjusting a focus based on said image signal obtained by said image sensor (101; As shown in figure 8, the image signal is passed to blocks 130 and 102.), wherein said focus evaluating value obtaining device (130 and 131) obtains said focus evaluating value (“high frequency component”) by reading only a portion of said image sensor when said display designating unit (110) determines that said image signal is not displayed (Figure 10e) by said image display device (109/210) while said image sensing apparatus photographs said image signal (When an area is selected for AF and electronic zooming, only a portion of said image sensor corresponding to selected area is readout, see column 12, lines 49 – 54).

Miyawaki et al. do not disclose a storage medium in which a control program of an image sensing apparatus for performing the above steps is stored. However, Official Notice (MPEP § 2144.03) is taken that both the concepts and advantages of providing a storage medium in which a control program of an image sensing apparatus for performing the above steps is stored are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have for the advantage of providing a readily upgradeable method of operation.

18. As for **Claim 16**, Miyawaki et al. disclose, as shown in figure 10, wherein said focus evaluating value obtaining device obtains said focus evaluating value by reading an entire region of said image sensor when said display designating unit determines that said image signal is displayed by said image display while said image sensing apparatus photographs said image signal (see explanation below).

Figure 10f corresponds to when the display designating unit designates TO display said image signal and, as stated above, figure 10e corresponds to when the display designating unit does NOT display said image signal. Furthermore, only when a display designating unit does NOT display said image signal is when only a portion of said image sensor is readout, see column 12, lines 49 – 54.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 5:00 PM and on alternating Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy R Garber can be reached on 571.272.7308. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

April 30, 2005


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